IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

WEDNESDAY, THE 27TH JUNE 2007 / 6TH ASHADHA 1929

Crl.Rev.Pet.No. 562 of 1998(C)

CRA.124/1995 of SESSIONS COURT, PALAKKAD DT.10.6.98
CC.163/1993 of JUDICIAL MAGISTRATE OF 1ST CLASS, PATTAMBI, DT.31.7.95.

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REVN. PETITIONER: APPELLANT/ ACCUSED

SASI ALIAS SASIKUMAR, S/O. VELLA,
KURIMKULAM VEEDU,
THIRUVAZHIYADU, AYALUR PANCHAYAT,
NEMMARA, CHITTUR TALUK.

BY ADV. SRI.JOSE K.KOCHUPAPPU
SRI.M.VENUGOPALAN
SRI.P.VELAYUDHAN

RESPONDENT: RESPONDENT/ COMPLAINANT

STATE OF KERALA, REP.BY
C.I.OF POLICE, PATTAMBI,
(CRIME NO.147/93 OF PATTAMBI
POLICE STATION.)

BY PUBLIC PROSECUTOR SRI.S.DILIP

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 27/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

CRL.RP.NO.562/1998

ORDER ON CRL.MP. 2938/1998 IN CRL.RP. 562/1998

DISMISSED

27.06.2007 **SD/- K.R.UDAYABHANU, JUDGE**

/TRUE COPY/

P.S. TO JUDGE

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K.R. UDAYABHANU, J.

CRL.R.P. NO. 562 of 1998

Dated this the 27th day of June, 2007

ORDER

The revision petitioner stands convicted for the offences under sections 279, 337, 338 & 304(A) IPC and sentenced to pay a fine of Rs.500/- for the offence under section 279 IPC; to pay a fine of Rs.500/- for the offence under section 337 IPC; to undergo simple imprisonment for 6 months for the offence under section 338 IPC and to undergo simple imprisonment for 6 months and to pay a fine of Rs.1000/- for the offence under section 304(A) IPC and in default to undergo simple imprisonment for one month each. The sentences shall run concurrently. It is further held that the accused is disqualified from holding driving licence for a period of 3 months.

2. The prosecution case is that on 2-6-1993 at about 7.45 a.m, lorry bearing Regn. No. TCE 2557 driven by the accused in a rash and negligent manner so as to endanger human life from south to north through the Koppam Valanchery public road dashed against the jeep driven by the deceased that came form the opposite direction.

3. The evidence adduced in the matter consisted of the testimony of PWs 1 to 11 and Exts.P1 to P9.

4. It is seen from the testimony of PW-9, the AMVI and Ext.P3 the investigation report of the vehicle that the lorry had no mechanical defect. Ext.P4 is the inquest report. Ext.P9 series is the photographs of the dead body. It is seen from Ext.P2 scene mahazar which has been proved that the incident has taken place totally on the wrong side of the lorry i.e, 2.20 metres towards north. The width of the tarred portion is having 5.50 metres south-north with road margin on either side to an extent of about 1.20 metres on the northern side and 4.50 metres on the south. In the circumstances, and considering the evidence adduced, I find that the concurrent findings are only to be affirmed. The conviction is confirmed.

5. Counsel for the revision petitioner pleaded for leniency pointing out that 17 years have been elapsed since the commencement of the proceedings.

6. In the circumstances, I find that the sentence is liable to be modified. The sentence imposed for the offence under section 304(A) IPC is modified to imprisonment till the rising of

the court and to pay compensation of Rs.10,000/- to the L.Rs of the deceased Haneefa, and in default, to undergo simple imprisonment for 6 months. The revision petitioner is granted two months' time from today onwards to pay the amount of compensation. The revision petitioner shall appear before the JFCM, Pattambi on 30-8-2007 to receive the sentence. No separate sentence is awarded for the rest of the offences.

The Crl.R.P is disposed of accordingly.

K.R.UDAYABHANU,JUDGE.

Kvm/

K.R.UDAYABHANU, J.

CRL.R.P. NO. 562 OF 1998

ORDER

27-6-2007.